

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL CASE NO. 3:22-cv-00454-MR

THIS MATTER is before the Court on remand from the Court of Appeals for the Fourth Circuit to address Plaintiff's request for an extension of time to file a notice of appeal. [See Doc. 88].

Pro se Plaintiff Gerald Damone Hopper (“Plaintiff”) filed this action pursuant to 42 U.S.C. § 1983 on August 31, 2022. [Doc. 1]. On November 9, 2023, the Court granted summary judgment for Defendants and the Court’s final judgment was entered. [Docs. 85, 86]. On the same day, the Clerk’s office mailed Plaintiff a copy of the summary judgment Order and the Final Judgment in this matter. [11/09/2023 (Court Only) Docket Entry]. On December 18, 2023, Plaintiff mailed a letter addressed and directed to the Fourth Circuit in which he advised the Clerk that his address had changed

and requested an extension of time “to submit any filings with the Court ... [d]ue to the fact that [he hadn’t] received any correspondence concerning the appeal filed in this matter; due to the change of address.” [Doc. 88 at 2]. This letter was transmitted to this Court from the Fourth Circuit and docketed as a misrouted Notice of Appeal. [Doc. 88]. On March 19, 2024, the Plaintiff’s copies of the summary judgment Order and Final Judgment in this case were returned as undeliverable. [Doc. 91].

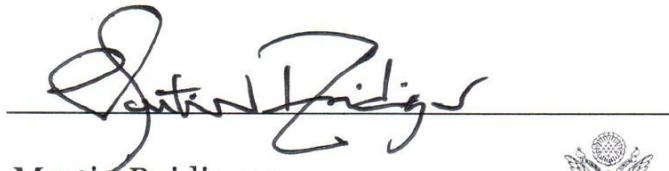
A litigant must file a notice of appeal in a civil suit within thirty days of the entry of judgment. Fed. R. App. P. 4(a)(1)(A). The timely filing of a notice of appeal is mandatory and jurisdictional. Bowles v. Russell, 551 U.S. 205, 214 (2007). The district court may extend the time for filing a notice of appeal if (1) a party moves for an extension of the appeals period within 30 days after the expiration of the original appeals period and (2) the party demonstrates either excusable neglect or good cause to warrant the extension. Fed. R. App. P. 4(a)(5)(A).

Upon review of the Plaintiff’s motion, the Court finds that the Plaintiff has shown good cause for an extension of the appeal period. The Court therefore will grant Plaintiff’s motion to extend the appeal period to file a Notice of Appeal with the Fourth Circuit Court of Appeals up to and including December 18, 2023. See Fed. R. App. P. 4(a)(5)(C).

IT IS, THEREORE, ORDERED that the Plaintiff's motion for extension of time to file notice of appeal [Doc. 88], as construed by the Fourth Circuit, is **GRANTED** and Plaintiff had until December 18, 2023 in which to file a Notice of Appeal with the Fourth Circuit Court of Appeals.

IT IS SO ORDERED.

Signed: April 17, 2024



Martin Reidinger
Chief United States District Judge

